



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

DEC 09 2008

VIA FACSIMILE (312) 744-5272, (773) 380-6421 AND U.S. MAIL

REPLY TO THE ATTENTION OF

SE-5J

Dr. Raul Valdivia  
Chicago Department of Environment  
30 North LaSalle Street  
Chicago, Illinois 60602

Mr. Bruce Clegg  
Conestoga-Rovers & Associates, Inc.  
8615 West Bryn Mawr  
Chicago, Illinois 60631



RE: Lindsay Light II/ OU6 (Formerly 246 East Ohio/247 East Ohio, now 245 East Ohio or 270 East Ohio)/ Fairbanks Development Associates, Chicago, Illinois

Dear Dr. Valdivia and Mr. Clegg:

Although the Illinois Environmental Protection Agency had previously issued a no further action letter regarding underground storage tank ("UST") removal and cleanup at the above-referenced site, on December 2, 2008, Fairbanks Development Associates LLC ("FDA") discovered another UST while performing removal work pursuant to a Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9601 et seq. as amended ("CERCLA") Section 104 settlement agreement with the U.S. Environmental Protection Agency ("U.S. EPA"). This removal action cleanup project is bounded by Fairbanks Court, Grand Avenue, and Ohio Street. FDA has identified radioactive thorium contamination at this property exceeding 850 pico curies per gram or more than 120 times the U.S. EPA thorium cleanup level for Streeterville.

Under the terms of the removal action settlement agreement with U.S. EPA, FDA agreed to remove radioactive material from the site and to the extent practicable, as determined by U.S. EPA, to comply with all local, state and federal laws except as provided in Section 121(e) of CERCLA. As you may be aware, CERCLA Section 121(e) does not require federal, state, or local permits for on-site removal action work, however, to the extent practicable, the removal action must meet the substantive requirements. As winter weather has arrived, any further delay in the UST removal may jeopardize the timely completion of this project. For this reason, unless FDA receives an expedited permit from the City of Chicago allowing the removal action to continue without delay, U.S. EPA believes that pursuant to CERCLA Section 121, FDA is exempt from the requirement of obtaining an UST removal permit.

If you have any questions or would like to further discuss a matter, please contact me at  
~~(312) 886-3601 or Eugene Jablonowski, Superfund Health Physicist, at (312) 886-4591.~~

If you have questions about U.S. EPA's CERCLA authority, please call Mary Fulghum,  
Office of Regional Counsel, at (312) 886-4683 or Cathleen Martwick at (312) 886-7166.

Sincerely,

A handwritten signature in cursive script that reads "Verneta Simon". The signature is written in black ink and is positioned above the printed name and title.

Verneta Simon  
On-Scene Coordinator

cc: Mort Ames, Corporation Counsel, City of Chicago

bcc : Mary Fulghum, C-14J

~~Charles Gebien, SE-5J~~

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Eugene Jablonowski, SMF-4J

Mike Joyce, P-19J

Debbie Keating, SE-5J

Cathleen Martwick, C-14J